

REMARKS

Applicants respectfully request reconsideration of this application, and reconsideration of the Office Action dated February 23, 2004. Upon entry of this Amendment, claims 5 and 8-30, 32, 37-41 and 43-47 will remain pending in this application with claims 12-26 and 28-30 having been withdrawn. The changes to the claims are fully supported by the specification and original claims. No new matter is incorporated by this Amendment.

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Claim 32 is objected to because of a typographical error. In response, claim 32 has been amended to correct the typographical error. Thus, the rejection is overcome and its withdrawal is respectfully requested.

* * *

Claim 27, 31, 33-35, 39-40 and 46 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

As an initial matter, Applicants note that claims 31 and 33-35 have been canceled by this Amendment. Moreover, claim 46 has been amended so that it depends from claims 5, 8, 37 or 38.

With respect to claim 27, the term “including” has been replaced with “comprises” as suggested by the Examiner. Moreover, claim 39 has been amended to recite “the complete complement.” Hence, this rejection has been accommodated and its withdrawal is respectfully requested.

* * *

Claims 38 and 46 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

In response, claim 38 has been amended to recite “nucleotides 200 to 2515.” Hence, this rejection has been overcome and its withdrawal is respectfully requested.

* * *

Claims 33, 35, and 46 are rejected under 35 U.S.C. § 112 , first paragraph, as failing to comply with the written description requirement.

Claims 36 and 46 are rejected under 35 U.S.C. § 112 , first paragraph, as failing to comply with the written description requirement.

In addition, claims 36 and 46 are rejected under 35 U.S.C. § 112 , first paragraph, for not being fully enabled by the specification.

Claims 33, 35, and 36 have been canceled by this Amendment. Moreover, claim 46 has been amended so that it no longer depends from claim 33, 35, or 36. Hence, these three rejections are moot.

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Claims 10 and 46 are rejected under 35 U.S.C. § 112 , first paragraph, for not being fully enabled by the specification.

Claim 10 has been amended to recite that “the *cstA* gene is over-expressed by increasing the copy number of the *cstA* gene or by operably linking a promoter to the *cstA* gene.” The Office Action concedes that claim 10, as amended, is enabled by the specification. Hence, this rejection is overcome and its withdrawal is respectfully requested.

* * *

Claims 9, 41, 42, 44, 46, and 47 are rejected under 35 U.S.C. § 102(b) as purportedly anticipated by Eikmanns et al. (1993). The Office Action asserts that Eikmanns describes each feature of the claims. Specifically, the Examiner asserts that the

bacteria described by Eikmanns would inherently include the sequences recited in the claims. Applicants respectfully traverse.

Claims 9, 41, 44, and 47 have been amended to recite that the recombinant bacterium is obtained after transformation with a vector comprising the *cstA* gene or the isolated polynucleotide of the claims from which they depend respectively. Eikmanns neither teaches nor fairly suggests transforming bacteria with the nucleotide sequences recited in these claims. Moreover, Eikmanns neither teaches nor fairly suggests the vector of claim 46. Hence, Eikmanns fails to teach or fairly describe each and every feature of the claimed invention. Accordingly, this rejection is overcome and its withdrawal is respectfully requested.

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Claims 33-35, 38, 42, and 46 are rejected under 35 U.S.C. § 102(a) as purportedly anticipated by Pompejus et al. (WO 01/00804).

In addition, claims 33-35, 38, 42, and 46 are rejected under 35 U.S.C. § 102(a) as purportedly anticipated by Nakagawa et al. (EP 1108790).

These two rejections are addressed together as similar issues apply to both. Moreover, Applicants traverse both rejections.

Claims 33-35 and 42 have been canceled by this Amendment. Moreover, claim 38 has been amended to refer to nucleotides 200 to 2515, which is fully supported by the priority document. In addition, claim 46 has been amended so that depends from claims 5, 8, 37 or 38, which are all supported by the priority document. Hence, neither Pompejus nor Nakagawa qualify as prior art with respect to claim 38 or 46.

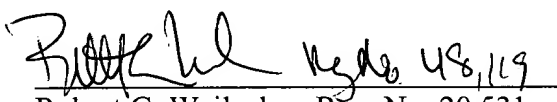
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Applicants respectfully submit that this Amendment and the above remarks obviate the outstanding objection and rejections in this case, thereby placing the application in condition for immediate allowance. Allowance of this application is earnestly solicited.

If any fees under 37 C.F.R. §§ 1.16 or 1.17 are due in connection with this filing, please charge the fees to Deposit Account No. 02-4300; Order No. 032301.195.

If an extension of time under 37 C.F.R. § 1.136 is necessary that is not accounted for in the papers filed herewith, such an extension is requested. The extension fee should be charged to Deposit Account No. 02-4300; Order No. 032301.195.

Respectfully submitted,
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